

Pt. 20

General Counsel shall so advise the employee and no further action on the employee's request shall be taken.

(g) In all instances except those where the Department of Justice has non-concurred in the request, the General Counsel shall forward for decision to the Secretary or his or her designee the employee's request, the recommendation of the head of the employee's principal operating component, the views of the Department of Justice, and the General Counsel's recommendation.

(h) Any payment under this part, either to indemnify a Department employee or to settle a personal damage claim, is contingent upon the availability of appropriated funds of the Department that are permitted by law to be utilized for this purpose.

PART 20—BOARD OF CONTRACT APPEALS

Subpart A—Development of Housing and Urban Development Board of Contract Appeals

Sec.

- 20.1 Scope of part.
- 20.2 Establishment of Board.
- 20.3 Organization and location of the Board.
- 20.4 Jurisdiction of the Board.
- 20.5 Board powers.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

20.10 Rules.

PRELIMINARY PROCEDURES

Rules

- 1. Appeals, how taken.
- 2. Notice of appeal, contents of.
- 3. Docketing of appeals.
- 4. Preparation, content, organization, forwarding, and status of appeal file.
- 5. Dismissal for lack of jurisdiction.
- 6. Pleadings.
- 7. Amendments of pleadings or record.
- 8. Hearing election and motions.
- 9. Prehearing briefs.
- 10. Prehearing of presubmission conference.
- 11. Submission without a hearing.
- 12. Optional small claims (expedited) and accelerated procedures. (These procedures are available solely at the election of the appellant.)
- 12.1 Elections to utilize small claims (expedited) and accelerated procedure.

24 CFR Subtitle A (4–1–98 Edition)

- 12.2 The small claims (expedited) procedure.
- 12.3 The accelerated procedure.
- 12.4 Motions for reconsideration in Rule 12 cases.
- 13. Settling the record.
- 14. Discovery—depositions.
- 15. Interrogatories to parties, admission of facts, and production and inspection of documents.
- 16. Filing and service of papers other than subpoenas.

HEARINGS

- 17. Where and when held.
- 18. Notice of hearings.
- 19. Unexcused absence of a party.
- 20. Hearings: conduct; examination of witnesses.
- 21. Subpoenas.
- 22. Copies of papers.
- 23. Posthearing briefs.
- 24. Transcript of proceedings.
- 25. Withdrawal of exhibits.

REPRESENTATION

- 26. Appellant.
- 27. Government.

DECISIONS

- 28. Decisions.

MOTION FOR RECONSIDERATION

- 29. Motion for reconsideration.

DISMISSALS AND DEFAULTS

- 30. Dismissal without prejudice.
- 31. Dismissal or default for failure to prosecute or defend.

REMAND

- 32. Remand from court.

SANCTIONS

- 33. Sanctions.

MISCELLANEOUS PROCEDURES

- 34. Applicability.
- 35. Time, computation and extensions.
- 36. Ex parte communications.

AUTHORITY: 41 U.S.C. 601–613; 42 U.S.C. 3535(d).

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

SOURCE: 50 FR 45911, Nov. 5, 1985, unless otherwise noted.

§20.1 Scope of part.

This part establishes a Board of Contract Appeals, sets forth its function,

policies and procedures regarding matters to be considered by the Board, and prescribes the rules of the Board.

§ 20.2 Establishment of Board.

There is established in the Office of the Secretary, the Housing and Urban Development Board of Contract Appeals ("the Board").

§ 20.3 Organization and location of the Board.

(a) *Location.* The Board's mailing address is: Board of Contract Appeals, U.S. Department of Housing and Urban Development, Room 2131, 451 Seventh Street, S.W., Washington, DC 20410-0001. For items requiring non-postal delivery, the Board is located in Room 3229, 1201 Constitution Ave., N.W. 20001. The telephone number of the Board is (202) 927-5110. (This is not a toll-free number.) For learning- or speech-impaired persons, this number may be accessed via TTY by contacting the Federal Information Relay Service at 1-800-877-8339. The facsimile number is (202) 927-6257.

(b) *Organization.* The Board shall be comprised of a Chief Administrative Judge, who shall be the Chair, an Administrative Judge, who shall be the Vice-Chair, and such other Administrative Judges as may be appointed by the Secretary. All members of the Board shall be attorneys at law duly licensed by any State, commonwealth, territory, or the District of Columbia. All members shall be selected and appointed to serve in accordance with section 8(b)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 608(b)(1)). Except as otherwise provided, appeals are assigned to a panel of at least three members who decide the case by a majority vote. The Chair shall assign one member of the panel to preside over the appeal and to conduct necessary conferences and hearings, supervise discovery and the development of the record for the Board, and to make such procedural determinations as are necessary to the proper disposition of the appeal.

[50 FR 45911, Nov. 5, 1985, as amended at 61 FR 13280, Mar. 26, 1996]

§ 20.4 Jurisdiction of the Board.

(a) *Contract appeals.* The Board shall consider and determine appeals from decisions of contracting officers under the Contract Disputes Act of 1978 (41 U.S.C. 601-613) relating to contracts entered into by (1) the Department of Housing and Urban Development or (2) any other executive agency when that agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal.

(b) *Other matters.* The Board or its individual members shall have jurisdiction over other matters assigned to it by the Secretary or designee. Determinations in other matters shall have the finality provided by the applicable statute, regulation or agreement.

§ 20.5 Board powers.

(a) *Board powers.* The Board shall employ support personnel, as needed, and shall have all powers necessary and incident to the proper performance of the duties assigned to it.

(b) *Disqualification.* No Administrative Judge may act for the Board or participate in a decision if, prior to the time the appeal was filed, he or she had participated in the matter in any manner on behalf of an interested party.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

SOURCE: 50 FR 45912, Nov. 5, 1985, unless otherwise noted.

§ 20.10 Rules.

(a) These rules govern the procedure in all matters before the Department of Housing and Urban Development Board of Contract Appeals, unless otherwise provided by applicable law or regulation. The Federal Rules of Civil Procedure may be applied where procedures are not otherwise provided in these rules. For applications and proceedings involving award of attorney fees and other expenses, the rules set forth in 24 CFR part 14 shall apply.

(b) *Filing Requirements.* A party shall file with the Board one original of any pleading or motion. That party shall simultaneously serve upon the other